



**State of Connecticut
DIVISION OF CRIMINAL JUSTICE**

TESTIMONY

JOINT COMMITTEE ON JUDICIARY

**S.B. No. 1220 (RAISED):
An Act Concerning Family Violence**

**H.B. No. 6629 (RAISED):
An Act Concerning Domestic Violence**

**H.B. No. 6633 (RAISED):
An Act Concerning Stalking**

March 30, 2011

The Division of Criminal Justice wishes to thank the Committee for this opportunity to comment on the following bills on the agenda for today's public hearing:

The Division recommends the Committee's Joint Favorable report for H.B. No. 6633, An Act Concerning Stalking. The Division would extend its appreciation to the Speaker's Task Force on Domestic Violence and Connecticut Sexual Assault Crisis Services (CONNSACS) for the work and effort that resulted in the drafting of this legislation. The bill strengthens our statutes to protect against stalking.

The Division also supports the underlying concept of S.B. No. 1220, An Act Concerning Family Violence, and H.B. No. 6629, An Act Concerning Domestic Violence. Again, we commend Representative Flexer and the Speaker's Task Force on Domestic Violence for the tremendous amount of effort that went into the development of these proposals. While generally in support of the overall concepts, we would raise the following reservations and offer the following recommendations which we believe would improve these bills:

Section 2 (b) of S.B. No. 1220 would require the Chief State's Attorney to establish a formal program to provide training on a quarterly basis for all prosecutors assigned to family violence matters. The Division of Criminal Justice is strongly committed to an aggressive training program for all of our employees, including those assigned to family violence matters. Family violence and domestic violence training is a regular component of our current training initiatives. The Division currently has a Senior Assistant State's Attorney and an Inspector assigned to the Violent Crimes Bureau in the Office of the Chief State's Attorney who deal exclusively with domestic violence matters. Through these employees the Division has taken a

leadership role in training law enforcement professionals in the investigation and prosecution of domestic violence matters. Our Inspector conducts extensive training for police departments throughout Connecticut. He supervised a grant funded initiative that provided special kits to municipal police departments containing equipment and materials for the investigation of domestic violence cases.

As laudable as we find the proposal to require a quarterly training program, we must note that the overriding concern with the prosecution of family violence matters lies in our ability to continue to have staff specifically dedicated to these matters. There are currently five prosecutor positions dedicated to the prosecution of domestic violence matters in the Hartford, Bridgeport, Windham, and Milford judicial districts that are funded entirely with federal funds. As we have noted in submissions to the Office of Policy and Management and the Joint Committee on Appropriations on several occasions, this federal funding has been shrinking in recent years while the costs of the positions has grown. We estimate that, over the upcoming biennium, federal funding will be adequate to fund only three of these positions. The Division has again asked the Appropriations Committee to approve the general fund pickup of two of these positions. The inability to transfer these positions would undermine our efforts to carry out the clear directive of the General Assembly for greater emphasis on the prosecution of domestic violence. We are already finding it difficult for prosecutors and other employees to simply find the time for training given the workload; further staff reductions will only leave less time for training. The training requirement envisioned in S.B. No. 1220 would be meaningless if there is no one to train or no one who can get away from the courthouse to attend training. Similarly, while the Division wholeheartedly supports the concept of section 9 (c) of the bill to establish additional dedicated court dockets for domestic violence matters, such an initiative would require substantial additional resources over and above those required to maintain the status quo. Absent any infusion of resources it would not be possible to establish additional special dockets let alone maintain the existing ones.

With regard to H.B. No. 6629, An Act Concerning Domestic Violence, the Division supports the overall concept of the bill. We would, however, respectfully recommend the Committee's Joint Favorable Substitute report deleting sections 12, 13 and 14 in their entirety. Several years ago the State's Attorneys reviewed cases where individuals who had obtained protective orders were charged with conspiring or accessory to violating those orders. In most cases it was determined that the charges were not appropriate. The police departments involved were so notified and the charges were dismissed or nolle. There is a clear consensus among prosecutors that such a charge should rarely, if ever, be brought, but neither should the law preclude such action in the very rare cases where the evidence clearly establishes that the charge is appropriate. For example, an individual could obtain a protective order and then solicit the subject of that order to meet in violation of the order and then have the subject arrested for violating the order.

The Division is concerned with the wording of section 4 of the bill, and specifically lines 385-387, which would make an individual charged with any felony ineligible for the family violence education program (FVEP). We would note that such individuals would still be eligible for the pretrial accelerated rehabilitation program (AR), but that in being approved for the AR program would not receive the same specialized treatment they would receive under the FVEP. Which is more appropriate - having someone charged with a family violence crime go to

counseling or anger management classes or perform completely unrelated community service under the AR program?

The Division would respectfully request the Committee's indulgence to amend section 15 of the bill to provide for a spousal abuse and child abuse exception to the confidential marital communications privilege in criminal prosecutions. The Division seeks to work with the Committee and other interested parties to develop appropriate language for such an exception. As presently drafted the language of section 15 would repeal section 54-84a of the general statutes which creates a testimonial privilege enabling a spouse to refuse to testify against his or her spouse except in certain circumstances, and replaces it with language that confuses the present statutory language and merges it with another separate privilege dealing solely with marital communications in a manner that confuses both privileges and renders inadmissible in evidence statements that should not be inadmissible. Take the example of the husband who tells his spouse, "I am going to kill you," and then goes out and hires someone to carry out crime. When he is arrested for conspiring to commit murder he can object to his words being admitted and under the language of section 15 the spouse's testimony would be inadmissible. The Division would respectfully ask the Committee to allow for further discussions to refine the language and if that is not possible to delete section 15 in its entirety.

The Division welcomes section 1 (h) of S.B. No. 1220, which directs the Police Officer Standards and Training Council (POST) to establish uniform protocols for investigating family violence. POST has worked in conjunction with the Division in the past to develop similar protocols and policies and we stand ready to assist in this endeavor as well. The Division believes this section renders unnecessary the task force proposed in Section 23 of H.B. No. 6629, and would respectfully recommend that the Committee delete Section 23 from H.B. No. 6629. The approach taken in section 1 (h) of S.B. No. 1220 is consistent with that found in existing law at Section 46b-38b (e) (1), which requires each law enforcement agency to develop in conjunction with the Division of Criminal Justice specific operational guidelines for arrest policies in family violence incidents. Section 46b-38b (f) further requires POST, in conjunction with the Division, to establish an education and training program for law enforcement officers on the handling of family violence incidents. There is a great potential danger to the public safety and to the police officers who respond to incidents of family/domestic violence. The policies and protocols governing the response to such an emergency situation should be determined by law enforcement and not by a task force comprised of those who despite the best of intentions have no role or responsibility for responding to immediate emergency situations where the risk of serious injury and/or death exists.

Finally, the Division has serious concerns and reservations about the revisions to the bail bond system proposed in sections 16-22 of H.B. No. 6629. We have attached separate testimony prepared by Kevin D. Lawlor, State's Attorney for the Judicial District of Ansonia-Milford, detailing our concerns with these sections of the bill. State's Attorney Lawlor conducted an intensive review of the bail bond system as it specifically relates to domestic violence incidents. The Division emphatically reiterates our longstanding belief that significant reform of the bail bond system is in order, and in fact long overdue. It is our understanding, however, that these issues are the subject of ongoing discussions with members of the General Assembly, the administration, the bail bond industry and the various agencies involved in the administration of the bail bond system. In the interests of moving the remaining sections of H.B. No. 6629

forward, the Committee may wish to defer action on the bail bond components of H.B. No. 6629 pending the outcome of these ongoing discussions and allow that issue to be addressed through another vehicle.

In conclusion, the Division of Criminal Justice reiterates its gratitude and appreciation to the General Assembly for your careful consideration of legislative initiatives to strengthen our laws to protect against domestic and family violence. The Division through its own initiatives and in response to the actions of the Legislature has sought to be a strong partner in the successful implementation of policies and practices to combat domestic violence and provide for effective prosecution. We look forward to continuing to work with the legislative and judicial branches in this important endeavor. We would be happy to provide any additional information the Committee might require or to answer any questions you might have.